

**H.R. 2580**  
**AMENDMENT TO THE AMENDMENT IN THE**  
**NATURE OF A SUBSTITUTE**  
**OFFERED BY \_\_\_\_\_**

Page 53, after line 13, insert the following new section and renumber the succeeding sections accordingly:

**1 SEC. 303. FEDERAL ENTITIES AND FACILITIES.**

2 Section 120 of the Comprehensive Environmental Re-  
3 sponse, Compensation, and Liability Act of 1980 (42  
4 U.S.C. 9620) is amended as follows:

5 (1) By amending the heading to read as follows:

**6 “SEC. 120. FEDERAL ENTITIES AND FACILITIES.”.**

7 (2) By amending paragraph (1) of subsection  
8 (a) to read as follows:

9 “(1) IN GENERAL.—(A) Each department,  
10 agency, and instrumentality of the executive, legisla-  
11 tive, and judicial branches of the United States shall  
12 be subject to, and comply with, this Act and all  
13 other Federal, State, interstate, and local require-  
14 ments, both substantive and procedural (including  
15 any requirement for permits or reporting or any pro-  
16 vision for injunctive relief and such sanctions as may  
17 be imposed by a court to enforce such relief), re-  
18 garding response or restoration actions related to

1 the release or potential release of hazardous sub-  
2 stances, pollutants, or contaminants in the same  
3 manner, and to the same extent, as any nongovern-  
4 mental entity is subject to such requirements, in-  
5 cluding enforcement and liability under sections 106  
6 and 107 of this title and the payment of reasonable  
7 service charges.

8 “(B) The Federal, State, interstate, and local  
9 substantive and procedural requirements referred to  
10 in subparagraph (A) include, but are not limited to,  
11 all administrative orders and all civil and adminis-  
12 trative penalties and fines, regardless of whether  
13 such penalties and fines are punitive or coercive in  
14 nature or are imposed for isolated, intermittent, or  
15 continuing violations. The United States hereby ex-  
16 pressly waives any immunity otherwise applicable to  
17 the United States with respect to any such sub-  
18 stantive or procedural requirement (including, but  
19 not limited to, any injunctive relief, administrative  
20 order, or civil or administrative penalty or fine re-  
21 ferred to in the preceding sentence or any reasonable  
22 service charge).

23 “(C) The reasonable service charges referred to  
24 in this paragraph include, but are not limited to,  
25 fees or charges assessed in connection with the proc-

1       essing and issuance of permits, renewal of permits,  
2       amendments to permits, review of plans, studies,  
3       and other documents, and inspection and monitoring  
4       of facilities, as well as any other nondiscriminatory  
5       charges that are assessed in connection with a State,  
6       interstate, or local response program.

7               “(D) Neither the United States, nor any agent,  
8       employee, or officer thereof, shall be immune or ex-  
9       empt from any process or sanction of any State or  
10      Federal court with respect to the enforcement of any  
11      injunctive relief.

12             “(E) No agent, employee, or officer of the  
13      United States shall be personally liable for any civil  
14      penalty under any Federal or State law regarding  
15      response or restoration actions relating to the re-  
16      lease or potential release of hazardous substances,  
17      pollutants, or contaminants, with respect to any act  
18      or omission within the scope of their official duties.  
19      An agent, employee, or officer of the United States  
20      shall be subject to any criminal sanction (including,  
21      but not limited to, any fine or imprisonment) under  
22      any such Federal or State law, but no department,  
23      agency, or instrumentality of the executive, legisla-  
24      tive, or judicial branch of the United States shall be  
25      subject to any such sanction.

1           “(F) The waiver of sovereign immunity pro-  
2           vided in this paragraph shall not apply to the extent  
3           a State law would apply any standard or require-  
4           ment to such Federal department, agency, or instru-  
5           mentality in a manner that is more stringent than  
6           such standard or requirement would be applied to  
7           any other person.

8           “(G)(i) The Administrator may issue an order  
9           under section 106 of this Act to any department,  
10          agency, or instrumentality of the executive, legisla-  
11          tive, or judicial branch of the United States. The  
12          Administrator shall initiate an administrative en-  
13          forcement action against such a department, agency,  
14          or instrumentality in the same manner and under  
15          the same circumstances as an action would be initi-  
16          ated against any other person.

17          “(ii) No administrative order issued to such de-  
18          partment, agency, or instrumentality shall become  
19          final until such department, agency, or instrumen-  
20          tality has had the opportunity to confer with the Ad-  
21          ministrator.

22          “(iii) Unless a State law in effect on the date  
23          of enactment of the Federal Facility Superfund  
24          Compliance Act of 1999, or a State constitution, re-  
25          quires the funds to be used in a different manner,

1 all funds collected by a State from the Federal Gov-  
2 ernment from penalties and fines imposed for viola-  
3 tion of any substantive or procedural requirement  
4 referred to in subsection (a) of this section shall be  
5 used by the State only for projects designed to im-  
6 prove or protect the environment or to defray the  
7 costs of environmental protection or enforcement.

8 “(H) Each such department, agency, and in-  
9 strumentality shall have the right to contribution  
10 protection set forth in section 113, when such de-  
11 partment, agency, or instrumentality resolves its li-  
12 ability under this Act.”.

13 (3) By striking paragraph (4) of subsection (a).

14 (4) By inserting “(other than the indemnifica-  
15 tion requirements of section 119)” after “responsi-  
16 bility” in subsection (a)(3).

Make the necessary conforming amendments.